

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF &
APPENDIX**

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

MIRIAM GIVEN and RUTH KÖISER
Plaintiffs,

MIRIAM GIVEN,
Plaintiffs-Appellant,

COUNTRYWIDE REALTY INC.,
ABRAHAM KAPLAN, MORRIS KARP,
CHARLES KOYMAN, ELMER L. LITWIN,
LEONARD NEWMAN, ARTHUR PURO
JEROME DEUTSCH and REALTY
EQUITIES CORP.,
Defendants-Appellees

BRIEF & APPENDIX

AUG 2 1976

BRIEF SUBMITTED
IN SUPPORT OF APPEAL
FILED December 15, 1975
and AMENDMENT TO
APPEAL FILED January 13, 1976

Miriam Given,

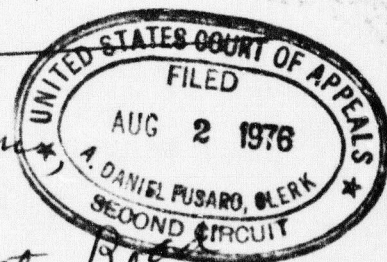
Pro-se

46 Cochrane Ave.

APT 506

Framingham, Mass 01701

Telephone (617) 873-7380



B R I E F

Case No
78-8195
(7-5662)

In May 1975 (First Sunday) received a long distance telephone call from Mr Arrom & Fisher, Attorney for Ruth Kaiser, Plaintiff, case 72 Civ 612, that he is to appear before Judge Owen the following Monday with reference to class action filed for Mrs Kaiser but I was not required to be at that hearing.

On May 9th 1975 received a letter from Mr Peter Block, Law Clerk by instructions from Judge Owen that a conference with Judge Owen is scheduled for May 22, 1975 which I must attend! the same day received a letter from Mr Raymond J Gregory, Attorney for the defendants advising me that Mrs Kaiser withdrew from case 72 Civ 612 and I was the only stock holder left suing the defendants; offered me a fraudulent settlement and if I refuse to accept it I will do worse in Court.

On May 9th I have written a letter to Mr Gary N. Sundick, Branch Chief of Securities and Exchange Commission, Washington, D.C. with copies to Honorable Chief Justice Edelstein of U.S. District Court, Southern District of N.Y.; on May 22, 1975 at the conference handed him his copy.

A few days before leaving for New York to attend the conference with Judge Owen received a document consisting of an order to try all

defendants from the U. S. District Court,
Southern District of N.Y.

On May 22 when I refused the settlement
claiming it was "unacceptable" Mr Gregory
asked Mr Block whether or not Judge Owen
signed the order Mr Block said that Judge
Owen signed said O R D E R. The date of the
trial was set for June 17, 1975.

I came to New York on June 16th 1975 in
order to look through the file in U. S. District
Court (Miriam Owen, et al vs Countrywide
Realty et al 67 Civ 4180) at that time I talked
to Mr Block, Law Clerk (Judge Owen) when it
became clear to me that Judge Owen had
no intention of trying the case on June 17, 1975.

I came from Framingham, Mass; was not
notified of adjournment of case but I was
unable to find out who adjourned the case.

Below quote part of a letter written
on June 17, 1975 to U. S. District Court,
Southern District of N.Y.

"I was in New York on June 16, 1975;
went to Court and for the first time
looked through the file (my file 67 Civ 4180);
received the surprise of my life. The
file is filled with fraud, conspiracies
and counter conspiracies between Mr
Morton Bunis, former attorney for the six
plaintiffs involved in case, Miriam Owen, et
al vs Countrywide Realty, et al (67 Civ 4180)

Realty Equities Corporation and Attorneys for
Defendants Shea, Climenko, Gould & Kaplan

I fired Mr. Morton Beunis, my former attorney
on September 9, 1970 notifying him the Court,
Shea, Climenko & Gould that I have fired
Mr. Beunis on September 9, 1970 and am handling
the case PRO SE; nevertheless on October 9, 1970

Mr. Beunis filed Class Action including me
as a Plaintiff with the provision that the
Counter. suit against the six Plaintiffs for
one million and a half dollars be dropped
(\$250,000 each) but if case is lost, I am to
pay the legal fees for the defendants as I am
the trouble maker.

On October 6, 1970 an affidavit in
great length was filed by Mr. Morris
Karp, President of Realty Equities Corporation
claiming that I am a Plaintiff represented
by Mr. Morton Beunis attorney."

On Monday, November 17, 1975 I called
Miss Chelibonice, Judge Owens' new law clerk
in the course of the conversation advised
me that the defendants nine in number
besides Realty Equities Corporation will in
all probability not be present at the
trial when it takes place. They

will be represented by one attorney, who does not even belong to a law firm.

I, who am attorney and Plaintiff is not going to be given a chance to face my tormentors since November 1965

It looks like the complete BRUSH OFF will take place at the trial,

As I predicted have been given the BRUSH OFF on December 1st 1975 at the trial ^{before} Judge Owen.

Only one defendant was present at the trial, Mr Morris Karp, President of Realty Equities Corporation; when I put the question before him, "What was the complaint against me that justified you to file a counter suit against the six plaintiffs but I was to pay the legal fees of the defendants if case is lost as I am the trouble maker?"

Mr Karp was going to answer but Mr Gregory, attorney for all defendants stopped him saying "we are not trying the case."

I herein wish to make the following statements;

I had a pre-trial hearing before Judge Owen on March 29, 1974

at that time Mr Ferrara, of Shea, Climenko, Gould + Kaplan said that they would not try the case. I appealed to Honorable Chief Justice David Edelstein to look into the case. Honorable Chief Justice David Edelstein answered (through his law clerk) and advised me that he forwarded my letter to him (to Judge Owen).

On January 14, 1975 when I appeared before Magistrate Hartenstein Mr Aaron Fisher, attorney for Mrs Kaiser was telling Mr Gregory, attorney for Defendants that he contacted Judge Owen with reference to the two cases (67 Civ 4180 and 72 Civ 612) as both cases had pre-trial hearings before Judge Owen, but Judge Owen had advised him that he no longer handled the cases mentioned above. Evidently Judge Owen dropped both cases.

Miriam Given et al
Countrywide Realty, Inc et al.
67 Civ 4180

Ruth Kaiser
v.
Countrywide Realty, Inc, et al
72 Civ 612

B R I E F

Page 6

Have filed Appeal on December 16, 1975
and Amendment to the Appeal January 12, 1976
which goes into greater detail of Fraud
and conspiracy against me (Plaintiff
and attorneys). According to document
received from U.S. Court of Appeals
Second Circuit signed by David
Fusaro Clerk, Pre-Argument Statement
Form C was filed 2-11-76.

All I can add to the Brief is
that the case Miriam Civen, et al vs
Countrywide Realty, Inc et al was filed
October 18, 1967. I fired my former
attorneys Mr. Morton Brunis on September 9, 1970.
Have been bounced around from one Judge
to another since January 5, 1971.
It was quite evident that the Judges
in question did not want to try the case
but on May 1975 it bounced back to
Judge Owen.

46 Cochituate Road
Apt 506
Framingham, Mass 0170
Area Code 617
873-7380

Respectfully Submitted
Miriam Civen, Pro-se
Miriam Civen, Appellant
Countrywide Realty, Inc, et al
Appellees
— — — — —

Registered Mail - Receipt requested - Special Delivery

Miss Miriam Civen
46 Cochituate Road, Apt. 506
Framingham, Massachusetts 01701

June 29, 1976

United States Court of Appeals
Second Circuit
U.S. Courthouse, Foley Square
New York, N.Y. 10007

Gentlemen: Attention Mr Daniel
Fusaro, Clerk

Re: BRIEF

PRO-SE
Case 76-8195
(2-5662)

76-7286

Am enclosing Brief as instructed
to file on or before July 19, 1976 in
document dated June 18, 1976 from
United States Court of Appeals, Second
Circuit, New York, N.Y.

Am forwarding copy of ~~the~~
brief to

Raymond J. Gregory
attorney for Defendants-
Appelles

~~280 Park Avenue~~ 630 Fifth Ave.
New York, N.Y.
~~647-8775~~ 757-5750

U.S. Attorney General Levi
U.S. Department of Justice
Washington, D.C. 20530

Respectfully
Miriam Civen

This action was filed in 1967 by six shareholders of common stock of defendant COUNTRYWIDE REALTY, INC., whose stock was traded on the American Stock Exchange. Federal jurisdiction is alleged under the Securities Exchange Act of 1934 and the Securities Act of 1933. The action arises under the 1934 Act, Sections 9, 10, 14 and 18 (Title 15, Section 77 l and q) and the Rules and Regulations promulgated under the Act, particularly Regulation 14A(a) under the 1934 Act.

The action is brought by these individual stockholders of COUNTRYWIDE to recover damages for the failure of defendants to disclose in proxy material leading to the sale of assets of COUNTRYWIDE to REALTY EQUITIES, INC., of the settlement of derivative actions brought on behalf of COUNTRYWIDE. It is plaintiffs' position that the settlement of the derivative action increased the book value of COUNTRYWIDE stock so that the value of COUNTRYWIDE's assets was substantially higher than stated in the proxy material.

Plaintiffs now move (1) for summary judgment on liability with an assessment of damages; (2) for payment of plaintiffs' attorney fees; (3) to dismiss the counterclaim alleging malicious prosecution; and (4) to designate this as a class action pursuant to Rule 23, F.R.C.P. I find that plaintiffs motions must each be denied.

Summary judgment is inappropriate at this stage of the lawsuit because questions of fact exist which cannot be resolved on this motion. The proxy statement was sent to stockholders on September 13, 1967 advising of a shareholders' meeting on October 18, 1967 at which a vote would be taken on the dissolution of COUNTRYWIDE upon a distribution of one share of REALTY EQUITIES common, for each of five shares of COUNTRYWIDE, common. This transaction was approved by a vote of 3,013,085 to 289,063.

The undisclosed derivative action which was being settled was brought on behalf of COUNTRYWIDE in Supreme Court, New York County (Gerber v. Kratter, et al. Index No. 736/66). Under the settlement, COUNTRYWIDE was to receive a 25% interest in a second mortgage said to be worth \$937,980 to COUNTRYWIDE. A referee appointed in the State Court rendered a report on September 28, 1967 approving the settlement.

It is at least questionable whether the approval of

settlement some two weeks after the mailing of the proxy material could, or should, have been disclosed. More questionable is whether the settlement was of such value as to have deserved disclosure in any event. Defendants maintain that COUNTRYWIDE "could not obtain any material benefit from the contemplated settlement of the Gerber derivative action until 1978, eleven years after the sale...". Defendants thus argue, with some persuasiveness, that nondisclosure of the settlement of the benefits which were delayed for many years would be immaterial to the decision of COUNTRYWIDE shareholders.

Additional factual questions are raised as to whether any substantial benefit would accrue to COUNTRYWIDE even in 1978. The mortgage does not bear any interest and there is no personal liability for payment on the principal. As calculated by defendants, COUNTRYWIDE would receive \$81,000 in principal payments before 1978, but was obligated to pay \$125,000 in attorney fees in the derivative suit. Thus, no present benefit would exist. Defendants, further, raise serious questions about the collectibility of the mortgage on maturity, as it is subordinate to a \$1,000,000 institutional first mortgage due on demand, and the buildings are more than sixty years old. Consequently, a sale of the premises may not be feasible. Based on these factual disputes, we cannot say that a trial of the action is unnecessary or that no genuine issues of material fact exist.

The salutary features of Rule 56, F.R.C.P., to dispense with unnecessary trials cannot be utilized to deny these defendants of their day in Court to try the substantial factual issues which I find in this case. Sartor v. Arkansas Gas Corp., 321 U.S. 620 (1944). Plaintiffs' reliance on Mills v. Electric Auto-Lite Co., 396 U.S. 375 (1970) is misplaced. There, the question of the materiality of the omission from the proxy statement was found as a fact by the District Court and affirmed on appeal. I cannot make such a finding here on the submission on this motion in view of the factual issues I have discussed.

The denial of summary judgment brings with it a denial of the application for payment of attorney fees. The latter could not properly be granted without the former.

I also deny plaintiffs' motion to dismiss the counterclaim in the answer. The counterclaim pleads abuse of process

and malicious prosecution of this lawsuit by some of the plaintiffs as retaliation for the rejection by defendants of their demands for preferred treatment in the purchase of plaintiffs' stock in COUNTRYWIDE. Usually, the main litigation must have terminated in favor of a party before that party can bring an action for malicious prosecution. I do not find this to be a hard fast rule, and in any event, it does not apply to a claim for abuse of process. While I have some serious reservations about the counterclaim, it should be allowed to continue, at least as a defense to the complaint, and await a full development of the facts on trial.

Lastly, plaintiffs seek an order designating this as a class action pursuant to Rule 23, F.R.C.P. The showing of plaintiffs at this time is insufficient to justify the entry of an order that this is a class action. Although the suit was filed in October, 1967, not one deposition has been taken. It appears, without dispute, that no procedural steps has been taken by plaintiffs since the institution of the suit, three years ago, until the instant motion. This is hardly the vigorous prosecution to be expected of those who would represent a class. No other party has sought to intervene, nor has any other suit been started against the defendants arising out of the same facts as are here involved.

I find that there is insufficient showing that these plaintiffs can or should properly represent the class of shareholders they seek to represent. The plaintiff GERBER can hardly be classified as a shareholder who was called upon to vote without knowledge of the pending settlement of the derivative action; in fact, he was the plaintiff in that action and is charged with full knowledge of the status of the action. It is not shown how the plaintiffs voted at the stockholders' meeting, and hence I have no showing that any of the plaintiffs were in fact led to vote in favor of the resolution in ignorance of the facts about the settlement.

In short, plaintiffs have fallen short of the showing required by Rule 23 to justifying a ruling in favor of a class action. While the motion under Rule 23 may be renewed at any time during the pendency of the suit, it must now be denied.

Motions of plaintiffs are each denied; so ordered.

Dated: January 8, 1971

s/s Sylvester J. Ryan
U.S.D.J.

CIV. 612 consolidated with this action for all
purposed-Owen, J. 9-16-74
CIVIL DOCKET

67 CIV 4180

67 CIV 4180

UNITED STATES DISTRICT COURT

Jury demand date:

JUDGE OWEN

D. C. Form No. 106 Rev.

TITLE OF CASE

ATTORNEYS

4-23-75

MIRIAM GIVEN and RUTH KAISER
Pltffs.

-vs-

COUNTRYWIDE REALTY, INC.,
ABRAHAM KAPLAN,
MORRIS KARP,
CHARLES KORMAN,
ELMER L. LITWIN,
LEONARD NEWMAN,
ARTHUR PURO,
JEROME DEUTSCH and
REALTY EQUITIES CORPORATION
Defts.

For plaintiff:

Morton S. Dunis, 235 E.
32nd St., NYC
Miriam Given pro se (10-15-70)
Brook House, Apt. 712A
44 Washington, St.
Brookline, Mass. 02146

Harry Silber (subst. 4-12-72) for pltffs.
261 Bay, NYC 10007

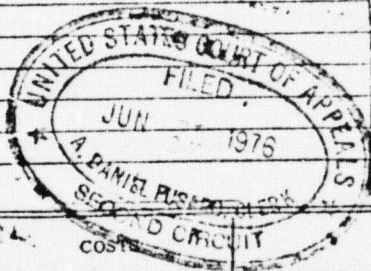
For defendant:

Shea, Callaghan & Spald
330 Madison Ave., NYC 10017

Battle, Fowler, Lidstone, Jaffin, Pierce & Kh
288 Park Ave., N.Y.C. 10017, NY 6-8330
(Countrywide Realty et al.)

Subst. 8/14/74

Raymond F. Gregory (Countrywide, et al.)
280 Park Ave., NYC 10017



STATISTICAL RECORD

COST

DATE

NAME OR
RECEIPT NO.

REC.

DISB.

J.S. 5 mailed

X

Clerk

10-27-67

DUNIS

15

10-31-67

WSTREAS

16

J.S. 6 mailed

12-23-75

Marshal

Basis of Action: Violation of
Securities Exchange Act of
1934 & Securities Act of 1933.

Docket fee

Witness fees

Action arose at:

Depositions

~~CONFIDENTIAL~~

DATE	PROCEEDINGS	Date Ord Judgment
Oct 27-67	Filed complaint and issued summons	
Oct. 28-67	Filed Order to Show Cause re: Motion. Ret. 10/31/67. Croke, J.	
Oct 30-67	Filed memo endorsed on show cause order filed 10-28-67. "After further discussion, the provisions in the restraining order providing for the temporary restraining order were physically stricken by the undersigned and initials affixed in the margin. (see memo)-Croke, J.	
Oct. 31-67	Filed (in court) Answering Affidavit of Jerome Deutsch.	
Nov. 2-67	Filed 2nd MEMO. END. Upon the representation that the acquisition of assets, one subject of the application for an injunction, has already been consummated, the motion is rendered moot, and there is no basis to grant the application. The motion is denied without prejudice to plaintiff's right to challenge the reorganization.	
Oct. 31-67	Filed Defendants' Memorandum in opposition to plaintiff's motion for a preliminary injunction. (filed in court)	
Nov. 15-67	Filed summons with marshal's ret. Served Elmer Litwin personally on 10/31/67. Unable to find Morris Karp and Jerome Deutsch on 10/31/67. Served Countrywide Realty Inc. by Elmer Litwin on 10/31/67.	
Nov. 22-67	Filed Notice to take Deposition.	
Nov. 22-67	Filed ANSWER of Countrywide Realty, Inc. and Elmer L. Litwin to complaint.	SCC4
Nov. 28-67	Filed Notice of Motion re: Protective Order. Ret. 11/30/67, together with affidavit in support.	
Nov 28-67	Filed pliffs' notice to take deposition of defts. (Countrywide Realty, Inc., Morris Karp & Elmer L. Litwin)	
Nov. 29-67	Filed Affidavit in opposition to pliffs' motion.	
Nov. 29-67	Filed Memorandum of defts. Countrywide Realty and Elmer L. Litwin in opposition.	
Dec. 1-67	Filed MEMO. END. on motion papers filed 11/28/67. Motion disposed of as directed by the court following argument. Order to be submitted. Mansfield, J. (mailed notice)	
Dec. 4-67	Filed stipulation and order adjourning depositions of plaintiffs to 12/18/67, etc.etc. Mansfield, J.	
Dec 11-67	Filed order--reasonable expenses of all pliffs. residing outside NYC, appearing for depositions by defts. (Litwin, et ano.) may be taxed as costs to abide the event herein; except as provided above, pliffs' motion is denied. Mansfield, J.--mailed notice	
Dec. 15-67	Filed stipulation and order adjourning depositions to 1/13/68, etc. Edelstein, J.	
Jan 23-68	Filed stip. & order adjourning depositions of pliffs. to 3-12-68 & adjourning depositions of defts. (Countrywide Realty, Inc., et ano.) to 3-14-68. Matzner, J.	
Mar. 1-68	Filed stipulation and order adjourning depositions as indicated. Cannella, J.	
Apr 4-68	Filed stip. & order adjourning depositions of pliffs. to 5-15-68 & adjourning depositions of defts. (Countrywide Realty, Inc., et ano.) to 5-16-68. Tyler, J.	
Jun. 26-68	Filed stip. & order adjourning the depositions of plaintiffs to 7-16-68 and the depositions of defts. Countrywide Realty, Inc. et ano to 7-18-68--Pollack, J.	
Jul. 15-68	Filed stip. & order adjourning the depositions of plaintiffs to 9-24-68 and the depositions of defts. Countrywide Realty, Inc. et ano to 9-26-68--Matzner, J.	
Oct. 3-68	Filed stip. & order adjourning the depositions of plaintiffs to 10-22-68 and defts. depositions to 10-24-68--Ryan, J.	
Oct. 23-68	Filed stip. & order adjourning the depositions of plaintiffs to 12-10-68 and defts. to 12-12-68--Sugarman, Ch. J.	
Feb. 28-69	Filed stip and Order - depositions of pliffs. noticed by defts. Countrywide Realty Inc. and Elmer L. Litwin for 2-17-67 be further adj. to 4-1-69. The depositions of defts. Countrywide Realty Inc. and Elmer L. Litwin noticed by pliff. for 12-8-67 be further adj. to 4-3-69 -- so ordered-- Edelstein, J.	
d	E	B

JUDGE OWEN

JUDGE STEWART

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date of Judgment
Apr. 11-69	Filed stip and Order - the depositions of the pliffs. Countrywide Realty Inc. and Elmer L. Litwin are further adj. to April 29, 1969 to the office of Manes, Sturim, Roth & Fisher at 10 A.M. and depositions of defts. Countrywide Realty, Inc. and Elmer L. Litwin are further adj. until May 1, 1969 at the office of Shea Gallon Climenko & Gould at 10 A.M. so ordered -- Tyler, J.	
Apr. 25-69	Filed stip and Order - the depositions of the pliffs. scheduled for 4-22-69 are adj. to 5-27-69 same time and place. The depositions of defts. Countrywide Realty, Inc. and Elmer L. Litwin scheduled for 5-1-69 are adj. to 5-29-69 -- so ordered -- Pollack, J.	
Jun 2-69	Filed stip and Order -- the depositions of the pliffs. noticed for 2-17-67 and adj. are further adj. to 6-24-69 at the office of Manes, Sturim, Roth & Fisher, 10 A.M. The depositions of defts. are further adj. until 6-26-69 at the office of Shea Gallon Climenko & Gould at 10 A.M. (noticed for 12-6-67) -- McLean, J.	
Jun 26-69	Filed stip and Order - the depositions of pliffs. noticed by defts. Countrywide Realty, Inc. and Elmer L. Litwin for 2-17-67 be adj. to 7-22-69. The depositions of defts. Countrywide Realty Inc. and Elmer L. Litwin noticed for 12-6-67 be adj. to 7-24-69 -- Lasker, J. so ordered	
June 11-70	Filed pliffs' affdvt & notice of motion re class action etc. ret. 6-16-70	
June 11-70	Filed pliffs' memorandum of law in support of its motion for summary judgment & class action	
June 16-70	Filed stip that pliffs' motion ret. 6-16 is adj. to 7-7-70	
July 7-70	Filed Stipulation that the return date of pliff's motion is adj. from 7-7-70 to 9-3-70 and further stipulation that defts will serve their answering papers prior to 9-1-70.	
Oct 15-70	Filed letter of Pltff Miriam Civen dated 9-3-70, discharging Morton S. Bunis as her atty. & indicating that thereafter she will appear pro se	
Jan 6-71	Filed order that pliff has 30 days to file a note of issue or action may be dismissed (m/n) SUGARMAN, J.	
Jan. 3-71	Filed deft's memorandum in opposition to motions. (Filed in court on 10-6-70.)	
Jan. 8-71	Filed deft's additional memorandum of law in opposition to pliff's motion for summary judgment.	
Oct 6-70	Filed in Court answering affdvt. of Morris Karp (a deft) in opposition to pliff's motion for summary judg.	
Oct 6-70	Filed in Court pliff's reply memorandum of law	
Jan 3-71	Filed memo endorsed on motion filed 6-11-70 -- Pliffs' motions are each denied -- So ordered -- Ryan, J. m/n	
Jan 27-71	Filed pliffs' NOTE OF ISSUE & statement of readiness	
Feb 3-71	Filed letter of Mill Miriam Civen pro se dated 2-1-71	
Feb 16-71	Filed copy of letter of Clerk to Miriam Civen re withdrawal of atty	
Mar 23-71	Filed letter of Miriam Civen to Clerk of Court dated 3-9-71	
Apr 21-71	Filed order pursuant to Cal. Rules 6 & 13 -- Sugarman, Ch. J.	
May 3-71	Filed defts' Countrywide Realty Inc. & Elmer Litwin designation of trial counsel	
June 11-71	Filed letter of Miriam Civen to Clerk re date for a pre trial conference dated 6-4-71	
Dec 6-71	Filed letter Miriam Civen to Clerk dated 12-3-71	
Dec 6-71	Filed letter of Morton Bunis to Miriam Civen dated 11-24-71 re affdvt for an adj.	
Dec 6-71	Filed affdvt of Morton Bunis (for pliffs' Gerber et al) in support of application to adjourn pre trial conference to a date in Jan '72	
Mar 16-72	Filed letter of Miriam Civen to Clerk of Court dated 3-15-72 re including an article in NY Times. (attached) to be included in file	

DATE	PROCEEDINGS	Date Order Judgment No
Mar 27-72	Filed stip & order of discontinuance as to pltif. Murray Selnick with prejudice & without costs-So Ordered Cannella J.	
Apr 12-72	Filed affdvt & Consent Order of substitution of atty. for plttf. Gerber-So Ordered Cannella J.	
Apr 12-72	Filed plttf's pre trial memorandum (Harry Silber)	
May 17-72	Filed stip & order that the complaint & counterclaim as to pltif. Rose Abraham are severed & discontinued with prejudice & without costs-So Ordered Cannella J.	
May 17-72	Filed stip & order that the complaint & counterclaim as to plttf. Morris J. Goldberg are severed & discontinued with prejudice & without costs-So Ordered Cannella J.	
May 17-72	Filed stip & order that the complaint & counterclaim as to pltif Lillian Marasin are discontinued with prejudice & without costs-So Ordered Cannella J	
May 22-72	Filed Deft Countrywide Realty Inc. and Elmer L. Litwin Affidvt & Notice of motion ret. 5-30-72 to dismiss the complaint, for failure to prosecute.	
May 22-72	Filed Memorandum of law in support of motion filed this day.	
May 26-72	Filed Stipulation that defts' motion to dismiss is adj. to June 6, 1972.	
Jun 7 72	Filed Miriam Civen declaration of lawsuit addressed to Clerk of this Court.	
Jun 21-72	Filed letter from Miriam Civen addressed to the Clerk (dated 5/25/72 but received at the civil desk on 6/21/72.) (by registered mail).	
Oct 13-72	Filed Memorandum Endorsed on motion filed 5-22-72-This case has been assigned to another Judge of this Court. Accordingly, defts' motion, to dismiss the complaint for failure to prosecute and for failure to comply with an order of the court, is denied without prejudice to plttfs right to renew the motion before the Judge to whom the case is assigned. So Ordered Cannella J. (M/N)	
Jan 5-73	Filed Stip & Order that this action as to Plttf. S. Edward Gerber severed & discontinued withut prejudice & without costs & disbursements. So Ordered /Stewart J.	
Jan 22-73	Filed letters from Miriam Civen dated 1/18/73, etc.	
May 9-73	Filed Letter & 33rd Annual Report Book (rec'd from Bob Martin this date)	
Jan 22-74	Mailed notice of reassignment pre-trial before	
3/29/74	Filed letter from Miss Miriam Civen dated 3/19/74 to the Clerks office.	
May 31-74	Filed order substituting deft's (Countrywide) attys--Owen, J.	
Aug 6-74	Filed Defts. Notice of Motion & Supporting affidavit. Re: Consolidating. ret. 8/16/74.	
Aug 6-74	Filed Defts. Memorandum of Law.	
Aug 14-74	Filed Order that Raymond F. Gregory is substituted as atty for deft. Countrywide Realty Inc, & Elmer L. Litwin in place & stead of Battle Fowler Lidstone Jaffin Pierce & Kheel. Owen J. (mailed notice)	
Sep. 16-74	Filed memo endorsed on motion to consolidate filed 8-6-74--Motion granted. So Ordered--Owen, J. Mailed notices.	
Dec. 12-74	Filed deft's (Countrywide Realty Inc. et al) affdvt & notice of motion for a class determination. Ret. 12-27-74.	
Jan. 9-75	Filed plttf's affdvt in opposition to defts' motion.	
Jan. 9-75	Filed plttf's memorandum in opposition to defts' R.23 motion.	
Apr. 23-75	Filed order changing title of action--Owen, J.	
May 8-75	Filed memo endorsed on unsigned order submitted by plttf.--My order of 4-11-75, certifying plttf. Ruth Kaiser as a class representative in this action is hereby amended to provide that this action may not be maintained as a class action. Plttf's claims on behalf of the class are dismissed.-So Ordered-Owen, J. Mailed notices.	

(Continued)

Civil 4180

Miriam Civen et al. vs. Countrywide Realty Inc. et al.

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date of Judgment
May 29-75	Filed Consent Order of Discontinuance as to certain debts. Ordered that the claim asserted by Pltff. Miriam Civen, 57 Civ 4180 shall be severed from the claim asserted by pltff. Ruth Kaiser, 72 Civil 612 & it to be treated henceforth as a separate action, & the caption be amended accordingly, Owen J. Memo End. on bottom of consent order: Further ordered that the action of Kaiser vs. Countrywide Realty, 72 Civil 612 be statiscically closed since pltff. has discontinued the action against all debts. who have been severed. Owen J.	
Jun 20-75	Filed letter of Miss Miriam Civen dated, 6-17-75.	
Nov 3-75	Filed letter of Miss Miriam Civen dated 10-24-75. Memo to Docket Clerk. on 12-1-75: Non Jury Trial begun and concluded on 12-1-75 Total Trial days 1 Decision Reserved Dorsa, C. Clk.	
Dec 5-75	Filed Opinion # 43493: I conclude that facts as to the possible settlement were not material, and would not have affected a reasonable stockholder in his decision to vote for or against said proposal. Pltffs complaint is therefore dismissed, . Defts Countrywide and Elmer L. Litwin, shal submit a judgment on notice, Owen, J. M/N.	
12-23-75	Filed Judgment - That Defts. Countrywide Realty, Inc. and Elmer L. Litwin (the other debts. not having been served with process) have judgment against the Pltff. (Miriam Civen) dismissing the complaint.....Owen, J. (notice mailed by Pro Se Clerk)	
12-30-75	Filed plaintiff Viven's notice of appeal from judgment entered on 12-23-75 dismissing complaint. n/m by Pro Se Clerk.	

A TRUE COPY

RAYMOND F. BURGHARDT, Clerk

By

Deputy Clerk

E

is action 13 consolidated with 6/civ4100 for
purposes--Owen, J. 9-16-74.
CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106 Rev.

CLASS ACTION

~~JUDGE JANNELLA~~

~~72 CH. 812~~

~~72 CIV 612~~

JUDGE OWEN

TITLE OF CASE

ATTORNEYS

JOHN KAISER

For plaintiff:

ACADEMY,

AVROM S. FISCHER

915 East 17th Street,
N.Y.C. N.Y. 11230

COUNTRYWIDE REALTY, INC.

IRAHAN KAPLAN,

ERIS KAPP,

ERIS KORMAN,

ELMER L. LITWIN,

LEONARD NEWMAN,

ARTHUR PIRO AND

JEROME DEUTSCH, AND

REALTY EQUITIES CORPORATION.

For defendant: ~~Steele-Gould-Glasser & K~~

~~Kramer (for Realty Equities Corp. of~~

~~530 Madison Avenue, NY 10017-4017~~

~~COUNTRYWIDE REALTY, MORRIS KAPP, ERIS~~

~~E. L. Litwin, Leonard Newman, Piro,~~

~~6/10/74 Bessie Fowler Litwin, Piro,~~

~~& Wheel 280 Park Avenue, NYC 10017~~

8/16/74 Subst.

Raymond F. Gregory

280 Park Avenue, NYC 10017

STATISTICAL RECORD

COSTS

DATE

NAME OR
RECEIPT NO.

REC.

DISB.

J.S. 5 mailed

X

Clerk

4/10/74 U.S. Fisher 15 -
2/15/74 S. Simon 15 -

J.S. 6 mailed

✓

Marshal

Basis of Action:

S.S. 3. ACT. 1934

\$500,000.00

Docket fee

Witness fees

Action arose at:

Depositions

X

RUTH KAISER, VS. COUNTRYWIDE REALTY, INC. ET AL

PAGE 1

DATE	PROCEEDINGS	Date Ord Judgment
May 29-72	FILED COMPLAINT. ISSUED SUMMONS. Ret. Served: Filed Summons and Marshals Realty Equities Corp. on 2/14/72 by C. Robert Roll.	SGC&K
Mar 10-72	Filed ANSWER.	
Jul 10-72	Filed Stip. & Order extending time for Deft' Realty Equities to answer Interrogs. So Ordered, Brienat J.	
Jan 11-73	Filed summons with marshals. ret served Arthur Puro on 12/1/72, also served Jerome Deutsch on 12/18/72 also served Charles Korman 1/1/73 also served Elmer Litwin 12/5/72, also served Leonard Newman on 12/6/72. unable to serve Abraham Kaplan.	
May 2-73	Filed deft's Realty Equities Corp. answers to plttf's interrogs.	SGC&K
May 12-73	Filed deft's Countrywide Realty, et al ANSWER to complaint.	
Aug 24-73	Filed stip and order that the plttf's time to move to have this action declared a class action is hereby extended to 10/8/73, So Ordered Cannella J.	
Oct 15-73	Filed Order that the plttf's time to move etc. has been extended to 11-8-73. Cannella,	
Jan 2-74	PRE TRIAL CONFERENCE HELD BY HARTENSTEDT, MAG.	
Feb 11-74	Mailed notice of reassignment	
2/22/74	pre-trial before <i>Owen J.</i>	
Jun 10-74	Filed Order that Battle Fowler Lidstone Jaffin Pierce & Wheel are substituted as attys. for defts. Countrywide Realty Inc., Morris Karp, Charles Korman, Elmer L. Litwin, Realty Equities Corp. of NY, Leonard Newman & Arthur Puro in place & stead of Shea Gould Climenko & Kramer. Owen J. (mailed notice)	
Aug 6-74	Filed Deft's Notice of Motion & Supporting Affidavit. Re: Consolidating. Ret. 8/16/74.	
Aug 6-74	Filed Defts. Memorandum of Law.	
Aug 16-74	Filed Order that Raymond F. Gregory is substituted for defts. Countrywide Realty Inc., Morris Karp, Charles Korman, Elmer L. Litwin, Arthur Puro in place & stead of Battle Fowler Lidstone Jaffin Pierce & Wheel. Owen J. (mailed notice)	
Sep. 16-74	Filed memo endorsed on Imotion filed 8-6-74 to consolidate-Motion granted. So Ordered--Owen, J. Mailed notices.	
11-13-74	PRE-TRIAL CONFERENCE HELD BY <i>Hartenstedt</i>	
1-13-75	PRE-TRIAL CONFERENCE HELD BY <i>Hartenstedt</i>	
4-29-75	<i>P.T.C. HEDGECOCK</i>	
5-22-75	<i>P.T.C. HEDGECOCK</i>	
May 29-75	Filed Consent Order of Discontinuance as to certain defts. Orderedx that the claim asserted by Plttf. Miriam Civen, 67 Civil 4180 shall be severed from the claim asserted by plttf. Ruth Kaiser, 72 Civil 612 & it be treated henceforth as a separate action, & the caption be amended accordingly, Owen J. Memo. End. on bottom of consent order: Further Ordered that the action of Kaiser vs. Countrywide Realty, 72 Civil 612 be statiscally closed since plttf has discontinued the action against all defts. who have severed. Owen J. (Filed in 67 Civil 4180)	

A TRUE COPY

RAYMOND F. BURCHARDT, Clerk

by

Deputy Clerk